

# RECEIVED



PRINT NAME: DANNY NATIVIDAD

SIGNATURE: [Signature]

DATE/TIME: 12 JAN 2023 10:00AM

GUAM ENVIRONMENTAL PROTECTION AGENCY • AHENSIAŇ PRUTEKSIÓN LINA'LA' GUÁHAN

LOURDES A. LEON GUERRERO • GOVERNOR OF GUAM | JOSHUA F. TENORIO • LIEUTENANT GOVERNOR OF GUAM

WALTER S. LEON GUERRERO • ADMINISTRATOR | MICHELLE C. R. LASTIMOZA • DEPUTY ADMINISTRATOR

JAN 11 2023

Bernie V. Maranan  
General Manager  
BME & Son's Inc.  
132 Golden Cupid Road, Latte Heights  
Mangilao, Guam 96931

RE: Notice of Violation, Order of Compliance, and Administrative Penalty Order  
(NOV/OC/APO) No. SW 22-002

Hafa Adai Mr. Maranan:

You are hereby advised that this Notice of Violation/Order of Compliance/Administrative Penalty Order No. SW22-002 is being issued to you as the President of BME & Son's Inc. (Respondent) for solid waste violations found at your facility on Lot 3409-13 in the municipality of Ordot-Chalan.

The Guam Environmental Protection Agency (Guam EPA) is responsible for implementing and enforcing the Solid Waste Management and Litter Control Act (SWMLC), Chapter 51 of Title 10, Guam Code Annotated.

This NOV/OC is based on a Compliance Evaluation Inspection (CEI) conducted on June 06, 2022, as a result of a solid waste complaint concerning improper waste management, hard filling of construction debris, wood waste, and household trash at your facility.

On June 06, 2022, Guam EPA inspectors Glenn San Nicolas and Richard Diego met with Mr. Danny P. Natividad, Chief Operations Officer & Safety Director, at the site. After proper introductions and explaining the purpose of the inspection, The Respondent accompanied Guam EPA on the CEI and inspected the following areas:

- Disposal Site 1 – Top side of the property
- Disposal Site 2 – Top Slope side of the property
- Disposal Site 3 – Bottom side of the property
- Disposal Site 4- Bottom slope side of the property

During this inspection, the following waste was observed: approximately eight (8) cubic yards (cy) of household and construction waste consisting of wood, trash, cardboard, plastic packaging, and metal pipes on Disposal Site 1; approximately thirty (30) cy of concrete rubble and slabs and four (4) cy of partially buried mixed trash visible from the side slopes on Disposal Site 2; partially buried power poles, silt screens, and commingled construction waste on Disposal Site 3; and approximately One Thousand One Hundred and Fifty-Six (1,156) cy of partially buried

commingled construction debris such as wood, cardboard, trash, power poles, metal, and household waste on Disposal Site 4.

A Guam EPA detailed compliance, evaluation inspection report and photo evidence collections of the investigation conducted at the site are enclosed. In addition, photo evidence collections of the ongoing clean-up at the site are also included.

### **NOTICE OF VIOLATION**

Based on the investigation, the Respondent violates the following sections of the Guam Solid Waste Management and Litter Control Act, Chapter 51 of Title 10 GCA.

1. "It shall be unlawful for any person to violate any provision of this Chapter or any rule, regulation, standard, or order issued under this Chapter." 10 GCA §51110(a)
  - *As described in this report, the Respondent violated the Solid Waste Management and Litter Control provisions.*
2. "It shall be unlawful for any person to Own, operate, or use a dump for the disposal of solid waste." Chapter 10 GCA §51110(a)(2).
  - *The Respondent owned and operated a dump for the disposal of solid wastes (metals, wood, trash, waste tires, construction debris, concrete rubble, power poles, and household wastes) on the property, contrary to the provisions of this Chapter.*
3. "It shall be unlawful for any person to place, or allow to be placed, any solid waste upon the highways, public or private property contrary to the provisions of this Chapter." 10 GCA §51110(a)(3).
  - *The Respondent placed or allowed the placement and disposal of solid wastes (metals, wood, trash, waste tires, construction debris, concrete rubble, power poles, and household wastes) on the property, contrary to the provisions of this Chapter.*
4. "It shall be unlawful for any person to manage solid waste facilities without a permit issued pursuant to this Chapter;" 10 GCA §51110(a)(4).
  - *The Respondent unlawfully operated a hardfill to dispose of miscellaneous solid waste (metals, wood, trash, waste tires, construction debris, concrete rubble, power poles, and household wastes), resulting in complaints to Guam EPA. Additionally, the property is located over the Northern Aquifer and within the Ground Water Protection Zone. Unpermitted operations impact Guam's land and water resources.*
5. "It shall be unlawful for any person to store, collect, transport, process, or dispose of solid waste in such a manner as to degrade the environment, create a public nuisance, create a health or safety hazard, or violate any provisions of this Chapter." 10 GCA §51110(a)(5).
  - *The Respondent unlawfully stored, and disposed of miscellaneous solid waste (metals, wood, trash, waste tires, construction debris, concrete rubble, power poles, and household wastes) in a manner that degrades the environment, creates a public nuisance, and creates*

## **NOTICE OF RIGHT TO APPEAL**

You may file within fifteen (15) calendar days from the receipt of this NOV/OC a Notice of Intent to Appeal, also known as a Notice of Defense, with the Guam EPA's Board of Directors, setting forth in such Notice of Intent to Appeal/Notice of Defense, a verified petition outlining the legal and factual bases. Attached is a copy of the Notice of Intent to Appeal/Notice of Defense.

Unless a written request for a hearing signed by you or on your behalf is hand-delivered or mailed to Guam EPA within fifteen (15) calendar days of receiving this NOV/OC, Guam EPA may proceed upon the NOV/OC/APO without a hearing.

As provided in 5 GCA §9205, a "Notice of Intent to Appeal, also known as a Notice of Defense, may be hand-delivered or mailed to the following address:

Guam Environmental Protection Agency Board of Directors  
c/o Administrator  
Attn: Air & Land Division  
Guam Environmental Protection Agency  
Building 17-3304 Mariner Avenue. Tiyan  
Barrigada, Guam 96913

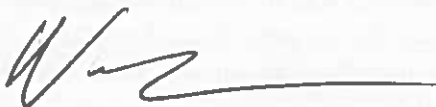
If you file a Notice of Intent to Appeal/Notice of Defense, the Guam EPA's Board of Directors shall hold a public hearing not more than sixty (60) calendar days after receipt of such Notice of Intent to Appeal/Notice of Defense. At this time, you may appear and present evidence in person or through counsel in support of this Petition.

Failure to file a Notice of Intent to Appeal and Verified Petition within the specified period will constitute a waiver of your right to a hearing. If you waive your rights to a hearing, the Order of Compliance and Administrative Penalty Order will become final, and Guam EPA may proceed with the Orders without a hearing and further notice to you.

Should you have any questions regarding this notice, please contact Mr. Glenn V. San Nicolas from the Solid Waste Program at 300-4751.

*Dangkolu na si Yu'us ma'ase'.*

*Senseramente,*

  
WALTER S. LEON GUERRERO  
Administrator

Attachments: CEI Report  
Notice of Intent to Appeal

*a health and safety hazard resulting in complaints to Guam EPA. Additionally, the property is located over the Northern Aquifer and within the Ground Water Protection Zone. Unpermitted operations like these degrade Guam's natural resources.*

### **ORDER OF COMPLIANCE**

Based on the violations cited above, Guam EPA hereby requires the Respondent to perform the following remedial measures within the time frames stated below from the date of receipt of this Order:

1. Immediately cease all illegal waste activity on the subject property;
2. Within seven (7) calendar days upon receipt of this NOV/OC/APO, submit the following:
  - (a) Volume of waste removed and disposed of at a Guam EPA Permitted facility.
  - (b) Disposal receipts.

Nothing in this Order of Compliance limits the ability of Guam EPA to enforce any provisions of applicable Guam laws and regulations. Guam EPA does not waive any rights or remedies available to it. Failure to comply with this Compliance Order may subject you to additional administrative, civil, or criminal penalties.

### **ADMINISTRATIVE PENALTY ORDER**

In addition to this Notice of Violation/Order of Compliance, the Administrator of Guam EPA, pursuant to 10 GCA §§ 51115 (b) and (e), hereby imposes an administrative penalty.

The maximum administrative penalty for solid waste is one thousand dollars (\$1,000.00) per day per solid waste violation or thirty-three thousand dollars (\$33,000.00) for four (4) violations of Sections 51110(a)(2),(3), (4), and (5) for eleven (11) days beginning on July 15, 2021, and ending on July 26, 2021.

The Administrator also considered the following factors in determining the administrative penalties:

1. No previous Solid Waste violations with Guam EPA;
2. Sense of urgency and Good Faith in cleaning up the site: Upon notifying the Respondent of the solid waste violations, assets were immediately deployed to sort, clean, and expeditiously remove and adequately disposed of the unauthorized waste; The Respondent completed the cleanup on July 26, 2022.
3. The seriousness of the violation; and
4. The risk to human health and the environment.

Therefore, the Administrator assesses a Four Hundred Eighty dollar \$ 480.00 penalty per day per violation for Section 51110(a)(2)(3), (4), and (5) in the sum of Nineteen Thousand Two Hundred dollars \$19,200.00 for ten (10) days in violation. You are presumed under the law to be able to pay the penalty under 10 GCA Chapter 51.

The penalty amount is due and owing fifteen (15) calendar days from the date of receipt of this Administrative Penalty Order. The payment due date will stay upon the timely filing of a Notice of Intent to Appeal/Notice of Defense. Failure to comply with this Administrative Penalty Order may subject you to additional administrative penalties or civil or criminal actions as described above.





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## **Solid Waste Compliance Evaluation Inspection Report**

<b>Purpose:</b>	Solid Waste Complaint
<b>Date of Investigation:</b>	June 06, 2022, & July 14, 2022
<b>Facility Name:</b>	BME & Son's Inc.
<b>SWMF Permit Number:</b>	None
<b>Site Location:</b>	L3409-13, Santa Cruz Dr., Ordot Chalan Pago Guam
<b>General Manager:</b>	Bernie V. Maranan
<b>Site Representative:</b>	Danny P. Natividad, Chief Operations Officer & Safety Director
<b>Mailing Address:</b>	132 Golden Cupid Road, Latte Heights, Mangilao, Guam 96931
<b>Contact Number:</b>	671-632-3338
<b>GEPA Representatives:</b>	Glenn San Nicolas & Richard Diego/GVSN, Drew Mora
<b>Phone:</b>	300-4751
<b>Report Date:</b>	7/14/2022

BME & Son's Inc.

Lot #:3409-13

Santa Cruz Dr. Ordot Chalan Pago, Guam

Site Map



Figure 1: Vicinity Map





Disposal Areas: D1-Top Area, D2- Top Area Slope, D3- Bottom Area, D4- Bottom Area Slope



**Fig. 2 Topographical Map**



## **Background**

BME & Son's Inc. was incorporated in Guam in May 1986 when founders Bernie V. Maranan, Bernadette P. Maranan, and Danny P. Natividad formed the company. The business started with small projects in commercial and residential homes specializing in mechanical works, repair and maintenance, renovation, and carpentry and expanded into the Dept. of Defense contracts.

According to the Land Records Division Office of the Recorder document number 760877035, Lot Numbers: L3409-13, Ordot is owned by BME & Son's Inc.

## **Introduction**

On June 06, 2022, at approx. 1000 hrs. Guam Environmental Protection Agency (Guam EPA) conducted a Compliance Evaluation Investigation (CEI) due to a solid waste complaint of illegal dumping of solid waste, specifically comingled construction debris, trash, wood, and metals.

After proper introductions and explaining the purpose of the inspection to Mr. Danny P. Natividad, Chief Operations Officer & Safety Director, of BME & Son's Inc. Guam EPA representatives. Glenn San Nicolas, Environmental Health Specialist (EHS) Supervisor, and Richard Diego, EHS I, conducted a site inspection accompanied by Mr. Natividad and inspected the following areas:

- Disposal Site 1 – Top side of the property
- Disposal Site 2 – Top Slope side of the property
- Disposal Site 3 – Bottom side of the property
- Disposal Site 4- Bottom slope side of the property

Site photos were taken.

## **Inspection**

June 06, 2022:

Disposal Site 1: Upper Westside of the property-

Guam EPA observed a pile of approximately ten (10) cubic yards (cy) of mixed solid waste consisting of household waste, construction waste, metals, wood, and cardboard packaging.

Disposal Site 2: Approximately thirty (30) cy of concrete rubble and slabs and four (4) cy of partially buried mixed trash are visible from the side slopes.

Disposal Site 3: Partially buried power poles, silt screens, and comingled construction waste.

Disposal Site 4: Approximately one thousand (1,000) cy partially buried comingled construction debris such as wood, cardboard, trash, power poles, and household waste. Visible from the bottom side slopes.

According to Mr. Natividad, the waste at the site is from the following BME & Son's Inc. Department of Defense Projects:

1. Navy: Bldg. 5, 18, & 20
2. U.S. Coast Guard FRC Project

On June 10, 2022, Mr. Rai Galang provided Guam EPA with the following project name and reference numbers for both the NBG and U.S. Coast Guard Projects:

1. P-640 Unaccompanied Enlisted Housing, NBG – N62742-19-R-1310
2. FRC Homeport-Sector Guam, Apra Harbor, Guam – J35000T001-016

On July 14, 2022, Guam EPA representatives (Glenn San Nicolas and Drew Mora, EHS I) accompanied by Mr. Danny P. Natividad, and Ruel Galang, along with a BME Excavator Operator, excavated two exploratory trenches approximately 4 feet deep and approximately 20 feet apart toward the middle of Disposal Site 3 trenching toward the upper slope to determine the extent of the contamination. Approximately 10-12 feet away from the edge of the slope, where settling was observed. Guam EPA observed wood debris ending at the eight foot mark. Ms. Drew Mora measured Area 3 with a measuring wheel and measured approximately 260ft. Based on the field calculations, of approximately 250' x 8' 15' Guam EPA estimates approximately 1,156 cy of mixed waste at Area 4.

**Chronology:**

Date	Time	Guam EPA Rep.	BME & Son's Inc Representatives	Location	Remarks
6/06/2022	1000-1450	GVSN/RD	Danny P. Natividad	BME & Son's Inc. Backfill Site Chalan Pago	Site inspection of D1,D2,D3, & D4 Mr. Natividad was instructed to submit a Guam EPA Disposal Plan and to start the cleanup process after Guam EPA obtains the site measurements and conducts exploratory trenches to determine the extent of contamination
6/10/2022	1539	GVSN	Rai Galang	Email	Emailed: Disposal Plan
6/13/2022	1039	GVSN	Rai Galang	Email+	Emailed: Disposal Plan Approved Note: Added power pole instructions
7/14/2022	1115-1145	GVSN/DM	Danny P. Natividad/ Ruel Galang	Site Visit	The measured length of Disposal Site No. 3 at ~260' x 12' x 10' BME Representatives were instructed to begin the cleanup process and separate wood, metal, trash, and large concrete rubble on site on July 15, 2022. For utility poles found on site to store on 6 mil poly sheeting and cover for Guam EPA disposal instructions.
7/26/2022	1555	GVSN	Rai Galang	Call	Site Cleaned requesting inspection
7/27/2022	1400	GVSN	Danny P. Natividad/ Ruel Galang	Site Visit	Site pics taken



Site Photos  
BME& Son's Inc.  
L3409-13, Santa Cruz Dr., Ordot Chalan Pago  
Backfill/Disposal Site



Pic. 1

Date: June 06, 2022

Time: 1023 hrs.

Location: Disposal Site 1: Upper West Side

Description: Left: Pile of mixed cardboard, wood, metal and household trash Right: Silt screen and metal pipe



Pic. 2

Date: June 06, 2022

Time: 1025 hrs.

Location: Disposal Site 1: Upper West Side

Description: Continuation of the pile of mixed waste





Pic. 3

Date: June 06, 2022

Time: 1042 hrs.

Location: Disposal Site 2: Upper Northwest Slope

Description: Miscellaneous construction waste, plastic, trash bags metal and wood



Pic. 4

Date: June 06, 2022

Time: 1040 hrs.

Location: Disposal Site 2: Upper Northwest Slope

Description: Miscellaneous construction waste, plastic, trash bags metal and wood





Pic. 5

Date: June 06, 2022

Time: 1041hrs.

Location: Disposal Site 2: Northwest Slope

Description: Upper Left: Concrete Slabs. Right Bottom Slope: Wooden Power Pole and Metal Pipe partially buried



Pic. 6

Date: June 06, 2022

Time: 1026 hrs.

Location: Disposal Site 3: Lower South Shelf

Description: Partially buried tires, wood, and metal rebar





Pic. 7

Date: June 06, 2022

Time: 1027 hrs.

Location: Disposal Site 3: Lower South Shelf looking Northwest

Description: Partially buried wood, and litter



Pic. 8

Date: June 06, 2022

Time: 1027 hrs.

Location: Disposal Site 3: Lower South Shelf looking south

Description: Partially buried tires, wood, power pole, trash, buckets, and metal rebar





Pic. 9

Date: June 06, 2022

Time: 1029 hrs.

Location: Disposal Site 3: Lower West Shelf looking South

Description: Partially buried wood, trash, and metal



Pic. 10

Date: June 06, 2022

Time: 1030 hrs.

Location: Disposal Site 3: Lower West Shelf

Description: Partially buried wood, trash, buckets, and metal





Pic.11

Date: June 06, 2022

Time: 1028 hrs.

Location: Disposal Site 4: Lower South Slope

Description: Wooden pallets, construction debris, trash bags, lumber, plastic packaging buckets, and metal rebar



Pic. 12

Date: June 06, 2022

Time: 1028 hrs.

Location: Disposal Site 3 just above the Disposal Site 4 Slope

Description: Utility Poles, PVC piping, and concrete slabs





Pic. 13

Date: June 06, 2022

Time: 1029 hrs.

Location: Disposal Site 3 just above the Disposal Site 4 Slope looking North East

Description: Utility Poles, PVC piping, concrete slabs, and trash bags



Pic.14

Date: June 06, 2022

Time: 1032 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: North Western area

Description: North side of partially buried miscellaneous waste consisting of vegetation, wood, trash, & metal





Pic. 15

Date: June 06, 2022

Time: 1033 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: North Western area

Description: End of partially buried miscellaneous solid waste consisting of vegetation, wood, trash, & metal



Pic. 16

Date: June 06, 2022

Time: 1034 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 4: Middle: South East side

Description: Partially buried miscellaneous waste consisting of metal, cardboard, plastic mattress, water heater, and lumber waste





Pic. 17

Date: June 06, 2022

Time: 1405 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 4: Middle: South East side

Description: Partially buried miscellaneous waste consisting of cardboard waste, plastic waste, mattress, water heater, lumber waste, and metal framing.



Pic. 18

Date: June 06, 2022

Time: 1035 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 4: Middle: South East side

Description: Partially buried miscellaneous waste consisting of cardboard waste, plastic waste, metal, and lumber waste





Pic. 19

Date: June 06, 2022

Time: 1041 hrs.

Location: Lot No. 3339-4-A-, Disposal Site 3: North East

Description: Upper Left: Concrete Slabs. Right Bottom Slope: Wooden Power Pole and Metal Pipe partially buried



Pic. 20

Date: June 14, 2022

Time: 1124 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site (D) 4-3: North Western area

Description: Exploratory trench starting from visible signs of debris along the side slope excavating back every 10 ft.





Pic. 21

Date: July 14, 2022

Time: 1125 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: North Western area

Description: Exploratory trench starting from visible signs of debris along the top slope of D4 excavating back every 10 ft. to D3



Pic. 22

Date: July 14, 2022

Time: 1128 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: North Western area

Description: Exploratory trench starting from visible signs of debris along the side slope excavating back every 10 ft. Visible signs of waste and wood ends approximately 8 ft from top of the slope to D4 to D3





Pic. 23

Date: July 14, 2022

Time: 1129 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: North Western area

Description: Exploratory trench starting from visible signs of debris along the side slope excavating back every 10 ft. Visible signs of waste and wood end approximately 8 ft from the top slope of D 4 to D3



Pic. 24

Date: July 27, 2022

Time: 1442 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 2,3,&4

Description: Site overview of D2,3,&4 Site cleaned





Pic. 25

Date: July 27, 2022

Time: 1453 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 2:



Pic. 26

Date: July 27, 2022

Time: 1454 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: Lower West Shelf





Pic. 27

Date: July 27, 2022

Time: 1451 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: Lower West Shelf



Pic. 28

Date: July 27, 2022

Time: 1455 hrs.

Location: Lot No. 3339-4-A-4, Disposal Site 3: Lower West Shelf looking South





Pic. 29

Date: July 27, 2022

Time: 1444 hrs.

Location: Lot No. 3339-4-A-4, Area 1

Description: Utility Poles on 6 mil. Poly sheeting



Pic. 30

Date: July 27, 2022

Time: 1445 hrs.

Location: Lot No. 3339-4-A-4, Area 1

Description: Utility Poles on 6 mil. Poly sheeting









AHENSIAN PRUTEKSION LINA'LA GUÁHAN

## NOTICE OF INTENT TO APPEAL – NOTICE OF DEFENSE

I, \_\_\_\_\_, have received your Notice of Violation, Order of Compliance and/or Administrative Penalty Order dated \_\_\_\_\_, charging me for violations and/or imposing penalties and/or other orders, and I wish to:

☐ **REQUEST FOR A HEARING AND**

- ☐ Object to the accusation on the ground that it does not state acts or omissions upon which the agency can proceed.
- ☐ Object to the form of the accusation on the ground that it is so indefinite or ambiguous that I cannot identify the infraction or prepare my defense.
- ☐ Wish to prepare a new matter in my defense
- ☐ Admit to the accusation in part

☐ **ADMIT TO THE ACCUSATION IN WHOLE**

☐ **VERIFIED PETITION:** *Under penalty of perjury*, I hereby declare that the following constitutes my legal and factual basis for this appeal (USE ADDITIONAL SHEETS IF NECESSARY):

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My mailing address is: \_\_\_\_\_

PRINTED NAME

SIGNATURE

DATE

GUAM EPA CASE#: SW 22-002



